

Message Text

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ARA/ECP:MADAVILA

EA:AGEBER

EUR/RPE:AALBRECHT

AF/EPS:ROMBARDI

STR:SLANDE

STR:JDONALDSON

NEA/RA:HMMONTGOMERY

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TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY

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INFORM CONSULS

E.O. 11652: N/A

TAGS:ETRD

SUBJECT: CONGRESS PASSES TRADE ACT OF 1974

REFS: (A) STATE 274803 (B) STATE 263873

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1. AFTER INTENSIVE HOUSE/SENATE CONFERENCE DELIBERATIONS
BEGINNING DECEMBER 17 (REF A) AND CONCLUDING DECEMBER 19
TRADE BILL WAS REPORTED TO BOTH HOUSES DECEMBER 20.
HOUSE VOTED ON BILL MORNING OF DECEMBER 20 WITH 323 IN

FAVOR AND 36 OPPOSING. DURING AFTERNOON OF SAME DAY, SENATE PASSED BILL BY A VOTE OF 71 TO 4. BILL NOW GOES TO PRESIDENT WHO WILL SIGN BILL INTO LAW BEFORE FIRST OF YEAR.

2. HIGHLIGHTS OF BROAD AUTHORITIES IN BILL, TOGETHER WITH OUTCOME OF KEY AMENDMENTS FOLLOW. AS OF THIS WRITING FINAL CONFERENCE COMMITTEE REPORT STILL UNAVAILABLE. WE WILL TRANSMIT MORE DETAILED COVERAGE AT EARLIEST OPPORTUNITY. FINAL BILL CLOSELY RESEMBLES VERSION REPORTED BY SFC (REF B).

3. BROAD AUTHORITIES:

A. TARIFF CUTTING AUTHORITY PROVIDES FOR REDUCTION TO 0

OF ALL DUTIES 5 PERCENT AND BELOW, WITH CUTS OF UP TO 60 PERCENT (AS OPPOSED TO 50 PERCENT IN SFC VERSION OF BILL) ON ALL TARIFFS ABOVE 5 PERCENT. STAGING OF REDUCTIONS WILL BE AT 3 PERCENT PER YEAR OR OVER A MAXIMUM OF 10 YEARS.

B. AUTHORITY TO ENTER INTO TRADE AGREEMENTS TO HARMONIZE, REDUCE, OR ELIMINATE NON-TARIFF BARRIERS IS BASICALLY SAME AS SFC VERSION (REF B), PROVIDING FOR NOTIFICATION OF CONGRESS AND PUBLIC AND SPECIAL PROCEDURES FOR APPROVING IMPLEMENTING LEGISLATION. OTHER AUTHORITIES AND NEGOTIATING OBJECTIVES ALSO BASICALLY SAME AS SET FORTH IN REF B.

4. RECIPROCAL NON-DISCRIMINATORY TREATMENT: LANGUAGE REQUIRING PRESIDENTIAL DETERMINATION AFTER CONCLUSION OF NEGOTIATIONS WHETHER ANY MAJOR INDUSTRIAL COUNTRY HAS FAILED TO PROVIDE SUBSTANTIALLY EQUIVALENT CONCESSIONS WAS ADOPTED AS MODIFIED. IF DETERMINATION POSITIVE, PRESIDENT SHALL RECOMMEND LEGISLATION TO CONGRESS TO RESTORE EQUIVALENT COMPETITIVE OPPORTUNITIES BY TERMINATING LIMITED OFFICIAL USE

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ING OR DENYING BENEFITS UNDER TARIFF OR NTB AGREEMENTS. THIS DETERMINATION APPLIES ONLY TO TOKYO ROUND (NOT TO EARLIER ROUNDS, AS PREVIOUSLY DRAFTED.)

5. ESCAPE CLAUSE: AS PREVIOUSLY REPORTED, CAUSAL LINK BETWEEN INJURY AND TARIFF CONCESSIONS REMAINS DELETED IN FINAL TEXT, AND "SUBSTANTIAL" REMAINS SUBSTITUTED FOR "MAJOR" IN RELATION BETWEEN INCREASED IMPORTS AND INJURY, WHICH IS DEFINED AS "IMPORTANT AND MORE THAN ANY OTHER SINGLE CAUSE." STRICT TIME LIMITS ON DECISION TO PROVIDE IMPORT RELIEF REMAIN, WITH DURATION EXPLICITLY SET AT 5 YEARS AND RENEWABLE FOR 3 YEARS ON A ONE-TIME

BASIS. PRESIDENT CONTINUES TO RETAIN DISCRETION IN GRANTING IMPORT RELIEF, SUBJECT TO CONGRESSIONAL OVERRIDE IN FAVOR OF RECOMMENDATION BY INTERNATIONAL TRADE COMMISSION, WHICH IS NEW NAME PROVIDED BY ACT FOR TARIFF COMMISSION.

6. ADJUSTMENT ASSISTANCE: ACT PROVIDES FOR EXPANDED ASSISTANCE TO DISPLACED WORKERS, IMPACTED COMMUNITIES AND FIRMS DESCRIBED IN REF B.

7. UNFAIR TRADE PRACTICES: ACT GIVES EXECUTIVE BROAD AUTHORITY TO RETALIATE AGAINST UNJUSTIFIABLE (E.G. ILLEGAL) OR UNREASONABLE (E.G. UNFAIR) FOREIGN ACTIONS WHICH RESTRICT U.S. COMMERCE, IN BOTH GOODS AND SERVICES,

INCLUDING IMPORT RESTRICTIONS, EXPORT SUBSIDIES, AND RESTRICTION OF ACCESS TO SUPPLIES. OTHER REVISED AUTHORITIES INCLUDE:

(A) ANTIDUMPING DUTIES: ACT PROVIDES TIME LIMITATIONS FOR ACTION AND OTHER PROCEDURAL CHANGES OUTLINED REF B, AND INCLUDING WORDING WHICH PROVIDES FOR SIMULTANEOUS CONSIDERATION OF INJURY AND SALES AT LESS THAN FAIR VALUE WHEN INVESTIGATION INITIATED. PROVISION REGARDING ACTIONS AGAINST FOREIGN MULTINATIONAL CORPORATIONS WITHOUT A HOME MARKET IS NOW MANDATORY. BEGIN FYI: ACT NOW ALSO CONTAINS LANGUAGE ON INJURY WHICH DIFFERS FROM THAT CONTAINED IN GATT ANTIDUMPING CODE. TEXT STATES THAT SALES AT LESS THAN FAIR VALUE DO NOT HAVE TO BE THE PRINCIPAL CAUSE OF INJURY TO U.S. INDUSTRY IN A FINDING LIMITED OFFICIAL USE
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OF INJURY AND DUMPING. END FYI.

(B) COUNTERVAILING DUTIES: ACT NOW EXTENDS COUNTERVAILING DUTY PROCEDURES TO COVER DUTY-FREE IMPORTS, WITH INJURY PROVISION ONLY FOR SUCH DUTY-FREE GOODS. BILL SETS SIX MONTH LIMIT FOR PRELIMINARY DETERMINATION AND 12-MONTH LIMIT FOR FINAL DETERMINATION FOLLOWING RECEIPT OF PETITION. HOWEVER, TREASURY GIVEN DISCRETIONARY SUSPENSION AUTHORITY FOR 4 YEARS FROM DATE OF ENACTMENT OF TRADE ACT, PROVIDED POINTS 1-3 PARA 12 REF B SATISFIED. ACT EXPLICITLY PROVIDES THAT THIS DISCRETIONARY AUTHORITY MAY NOT BE USED IN CASES INVOLVING IMPORTS OF NON-RUBBER FOOTWEAR UNLESS VOLUNTARY RESTRAINT AGREEMENT MANDATED IN TITLE I IS IN EFFECT.

8. TRADE WITH COMMUNIST COUNTRIES

TITLE IV REMAINS ESSENTIALLY AS DRAFTED BY SENATE FINANCE COMMITTEE. PRINCIPAL CHANGES FOLLOW.

A. HELMS AMENDMENT. ACT INCLUDES PROVISION TO FACILITATE FREEDOM FOR PERSONS TO EMIGRATE FROM ANY NON-MARKET ECONOMY COUNTRY--OTHER THAN ONE CURRENTLY ENJOYING MFN STATUS--IN ORDER TO "JOIN PERMANENTLY A VERY CLOSE RELATIVE IN THE U.S." PROVISION IS DUPLICATIVE OF JACKSON/VANIK AMENDMENT (WHICH IS RETAINED), AND IS ALSO SUBJECT TO WAIVER PROVISIONS OF J/V AMENDMENT.

B. GURNEY/CHILES AMENDMENT ON US MISSING IN ACTION IN SOUTH EAST ASIA. ACT GIVES PRESIDENT DISCRETION TO TERMINATE MFN AND GOVERNMENT CREDITS IF COUNTRY NOT COOPERATING TO ACHIEVE ACCOUNTING FOR MIAS, BUT ALL REPORTING REQUIREMENTS HAVE BEEN DELETED. JACKSON/VANIK, HELMS AND GURNEY-CHILES ALL EXPRESSLY INAPPLICABLE TO COUNTRIES CURRENTLY ELIGIBLE FOR MFN, I.E. POLAND & YUGOSLAVIA.

C. LONG/GRAVEL ("CZECH GOLD") AMENDMENT. FOLLOWING DIFFICULT AND LENGTHY DEBATE IN CONFERENCE, SENATOR RIBICOFF OFFERED GENERAL COMPROMISE NOW INCLUDED IN ACT, DETAILS OF WHICH ARE THAT A) ANY ACCEPTABLE CZECH CLAIMS AGREEMENT MUST PRODUCE IMPROVED SETTLEMENT THAN LIMITED OFFICIAL USE
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CURRENTLY PROVIDED FOR; B) NO MFN TREATMENT CAN BE ACCORDED UNTIL IMPROVED SETTLEMENT REACHED; C) GOLD WILL REMAIN WHERE IT IS UNTIL CLAIMS ISSUE RESOLVED. COMPROMISE HAS EFFECT OF DISPOSING OF SENATE FLOOR AMENDMENT BY SENATOR GRAVEL WHICH WOULD HAVE AMPLIFIED LONG/GRAVEL AMENDMENT BY PERMITTING U.S. COURTS IN D.C. TO ADJUDICATE ON WHETHER CZECH GOLD HELD BY U.S. COULD BE SOLD TO SATISFY CLAIMANTS.

D. SAFEGUARD PROCEDURES IN SFC VERSION WERE ADOPTED AND MADE APPLICABLE TO ALL COMMUNIST COUNTRIES, THEREBY COVERING POLAND AND YUGOSLAVIA AS WELL AS POTENTIAL RECIPIENTS OF MFN.

E. ACT INCLUDES PROVISION REQUIRING THAT \$300 MILLION CEILING BE PLACED ON ALL FUTURE EXPORT CREDITS, GUARANTEES AND INSURANCE ON EXPORTS TO THE USSR FROM ANY ONE USG AGENCY, ALTHOUGH CCC IS SPECIFICALLY EXEMPTED. CEILING IS FOR INDETERMINATE PERIOD BUT CAN BE RAISED BY CONGRESSIONAL ACTION. FORTY MILLION DOLLAR SUBCEILING ON FOSSIL FUEL ENERGY PROJECTS (AS PROVIDED FOR IN EXIM BANK AUTHORIZATION) IS NOT RPT NOT INCLUDED IN TRADE ACT.

F. TITLE IV INCLUDES A MODIFIED REQUIREMENT FOR THE PRESIDENT TO ESTABLISH AND MAINTAIN A PROGRAM FOR MONITORING EAST/WEST TRADE IN ORDER TO IDENTIFY POSSIBILITY THAT US MIGHT BE EXPORTING TECHNOLOGY IN A MANNER

NOT SERVING THE NATIONAL INTEREST. ACT INCLUDES
REPORTING REQUIREMENTS

G. COMMENT. IN DISCUSSING TITLE IV, ESPECIALLY WITH
EASTERN EUROPEAN OFFICIALS, POSTS SHOULD AVOID ALL
SPECULATION REGARDING ACTUAL NEGOTIATION OF TRADE
AGREEMENTS, TIMING OF EXTENSION OF MFN, AND US POLICY
PRIORITIES AMONG EASTERN EUROPEAN COUNTRIES. END COMMENT.

9. PREFERENCES FOR LDCS. FINAL TEXT OF TITLE V RETAINS
MOST OF SFC VERSION. LANGUAGE ADDED ON SENATE FLOOR
EXCLUDES FROM PRODUCT COVERAGE TEXTILES, SHOES, WATCHES,

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AND FOLLOWING PRODUCTS IF IMPORT-SENSITIVE: STEEL,
ELECTRONICS, AND MANUFACTURED AND SEMI-MANUFACTURED
GLASS PRODUCTS. EXCEPTION, APPLICABLE ONLY TO PHILIPPINES,
ALLOWING WAIVER OF COMPETITIVE NEED FORMULA IN NATIONAL
INTEREST IS MAINTAINED AS PROPOSED IN SFC TEXT. ROMANIA
(SUBJECT TO EXTENSION OF MFN) AND YUGOSLAVIA WOULD BE
ONLY COMMUNIST COUNTRIES ELIGIBLE.

RESTRICTIVE COUNTRY ELIGIBILITY REQUIREMENTS RE NATIONAL-
IZATION, DRUG CONTROL AND ARBITRAL AWARDS EASED TO EXTENT
OF ALLOWING PRESIDENTIAL WAIVER IN NATIONAL ECONOMIC
INTEREST. OPEC AND OTHER CARTEL COUNTRIES INELIGIBLE
IF THEY PARTICIPATE IN ACTION TO WITHHOLD VITAL COMMODITY
SUPPLIES OR RAISE PRICES UNREASONABLY AND SERIOUSLY
DISRUPT WORLD ECONOMY. PRESIDENT WAS GIVEN AUTHORITY TO
EXEMPT SUCH A COUNTRY IF IT ENTERS INTO AND COMPLIES WITH
SUPPLY ACCESS AGREEMENT MEETING TERMS OF STATUTE WHICH
INCLUDES MULTILATERAL ARRANGEMENTS. FINAL TEXT RETAINS
SFC PROVISIONS ON RULES OF ORIGIN, REVERSE PREFERENCES
AND FLEXIBILITY ON COMPETITIVE NEED CEILINGS.

SUMMATION AND GUIDANCE

10. THE ACT PROVIDES US WITH BROAD AUTHORITY TO ENTER
FULLY INTO THE MULTILATERAL TRADE NEGOTIATIONS. THE US
HAS THEREFORE DEMONSTRATED ITS CONTINUED SUPPORT FOR THE
MAINTENANCE AND STRENGTHENING OF THE INTERNATIONAL
ECONOMIC SYSTEM.

11. THE POTENTIAL DANGER TO THAT SYSTEM FOR PROTECTIONIST
PRESSURES EMANATING FROM THE PRESENT ECONOMIC CLIMATE WILL
BE SIGNIFICANTLY REDUCED THROUGH THE PROCESS OF THE MTNS.
POSTS SHOULD RENEW THEIR URGING OF HOST GOVERNMENTS TO
PARTICIPATE FULLY IN THE MTNS.

12. THE ADMINISTRATION WORKED LONG AND HARD TO HAVE THE

MANDATORY EXCLUSIONS FROM GSP EITHER DELETED OR MADE
DISCRETIONARY. THE CONGRESS' DECISION TO EXCLUDE FROM
GSP OPEC MEMBERS AND OTHER CARTEL MEMBERS WHO ACT IN A
LIKE MANNER CANNOT BE BLINKED AWAY. IT IS A REFLECTION
OF A VERY STRONG ADVERSE REACTION TO LAST YEAR'S OIL
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BLOCKADE AND THE LARGE AND RAPID RISE IN THE PRICE OF OIL
AND OTHER IMPORTED COMMODITIES WHICH ARE CONSIDERED
MAJOR CAUSES OF THE CURRENT SERIOUS DISLOCATIONS IN THE
US AND WORLD ECONOMY.

13. WE ARE BEGINNING THE PROCESS OF DETERMINING
WHETHER MEMBERS OF ANY OTHER PRODUCER OR PRODUCER/
CONSUMER COMMODITY AGREEMENTS MIGHT ALSO FALL UNDER

THE MANDATORY EXCLUSION PROVISION. OUR PRELIMINARY
JUDGMENT IS THAT MEMBERSHIP IN NONE RPT NONE OF THE
EXISTING ARRANGEMENTS OTHER THAN OPEC WOULD CURRENTLY BE
GROUNDS FOR MANDATORY EXCLUSION.

14. WE ARE CURRENTLY PREPARING A LIST OF BENEFICIARY
COUNTRIES AND PRODUCTS. WE ANTICIPATE A SIGNIFICANT NUM-
BER OF COUNTRIES WILL BENEFIT FROM GSP AND WE HOPE THAT
EVENTUALLY ALL LDCS WILL BE ELIGIBLE THROUGH MECHANISMS
PROVIDED FOR IN THE ACT. TARIFF COMMISSION REVIEW OF THE
LIST OF PRODUCTS WILL BE CONDUCTED OVER THE NEXT SIX
MONTHS. FOLLOWING THIS, WE SHOULD BE READY FOR IMPLEMEN-
TATION OF GSP. AT THAT TIME WE WILL EVALUATE THE GSP ON
THE BASIS OF THE LISTS AND REACTIONS FROM POTENTIAL
BENEFICIARIES. POSTS SHOULD BE AWARE THAT THE INITIAL
LIST OF BENEFICIARIES TO BE PUBLISHED SHORTLY MAY BE
MODIFIED AT THAT TIME.

15. WE WILL BE ASKING BY SEPARATE TELEGRAM FOR FURTHER
INFORMATION FROM SELECTED HOST GOVERNMENTS RE GSP
INCLUDING INFORMATION PURSUANT TO THE ACT ON COUNTRIES'
INTEREST RE WHETHER THEY WISH TO BE DESIGNATED AS A
BENEFICIARY.

16. IT SHOULD BE STRESSED THAT WE FULLY INTEND TO WORK
CLOSELY WITH DEVELOPING COUNTRIES IN THE MTNS TO
EXPAND TRADE WITH THEM. WE WILL SEEK TO CUT TARIFFS AS
DEEPLY AS POSSIBLE ON PRODUCTS OF PARTICULAR INTEREST TO
LDCS.

17. WE WILL CONTINUE TO SUPPORT THE TOKYO DECLARATION
WITH REGARD TO THE ROLE OF DEVELOPING COUNTRIES IN THE
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MTN INCLUDING THE STATEMENT THAT "THE NEGOTIATIONS SHALL AIM TO:... SECURE ADDITIONAL BENEFITS FOR THE INTERNATIONAL TRADE OF DEVELOPING COUNTRIES SO AS TO ACHIEVE A SUBSTANTIAL INCREASE IN THEIR FOREIGN EXCHANGE EARNINGS, THE DIVERSIFICATION OF THEIR EXPORTS, THE ACCELERATION OF THE RATE OF GROWTH OF THEIR TRADE, TAKING INTO ACCOUNT THEIR DEVELOPMENT NEEDS, AN IMPROVEMENT IN THE POSSIBILITIES FOR THESE COUNTRIES TO PARTICIPATE IN THE EXPANSION OF WORLD TRADE AND A BETTER BALANCE AS BETWEEN DEVELOPED AND DEVELOPING COUNTRIES IN THE SHARING OF THE ADVANTAGES RESULTING FROM THIS EXPANSION, THROUGH, IN THE LARGEST POSSIBLE MEASURE, A SUBSTANTIAL IMPROVEMENT IN THE CONDITIONS OF ACCESS FOR THE PRODUCTS OF INTEREST TO THE DEVELOPING COUNTRIES AND, WHEREVER APPROPRIATE MEASURES DESIGNED TO ATTAIN STABLE, EQUITABLE

AND REMUNERATIVE PRICES FOR PRIMARY PRODUCTS." THE TOKYO DECLARATION ALSO RECOGNIZES "...THE IMPORTANCE OF THE APPLICATION OF DIFFERENTIAL MEASURES TO DEVELOPING COUNTRIES IN WAYS WHICH WILL PROVIDE SPECIAL AND MORE FAVOURABLE TREATMENT FOR THEM IN AREAS OF THE NEGOTIATION WHERE THIS IS FEASIBLE AND APPROPRIATE."

18. WE EXPECT LDCS WILL BENEFIT SIGNIFICANTLY FROM LOWERED TRADE BARRIERS RESULTING FROM MTNS.

19. WE ANTICIPATE HOST COUNTRIES WILL HAVE MANY DETAILED QUESTIONS ON TRADE ACT AND WILL BE BRIEFING EMBASSIES HERE. POSTS SHOULD FORWARD DETAILED QUESTIONS THEY RECEIVE TO WASHINGTON FOR RESPONSE.

19. COPIES OF ACT AND OTHER RELEVANT DOCUMENTS WILL BE POUCHED AS SOON AS THEY ARE AVAILABLE. SISCO

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